

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CARLOS ALVIZO,

Case No. 2:20-cv-00805-EJY

Plaintiff,

V.

ANDREW SAUL, Commissioner of Social Security,

Defendant.

ORDER

10 Before the Court is Plaintiff Carlos Alvizo's Application for Leave to Proceed *in forma*
11 *pauperis*. ECF No. 1. Plaintiff challenges the Social Security Administration's denial of Social
12 Security Disability Insurance benefits and Supplemental Security Income benefits.

I. Application to Proceed *in forma pauperis*

Plaintiff submitted the declaration required by 28 U.S.C. § 1915(a) showing an inability to prepay fees and costs or give security for them. Accordingly, Plaintiff's request to proceed *in forma pauperis* is granted.

II. Screening the Complaint

Upon granting a request to proceed *in forma pauperis*, a court must additionally screen the complaint pursuant to 28 U.S.C. § 1915(e). A plaintiff must satisfy the following procedural requirements in order to file a complaint in a Social Security appeal before a federal district court: (1) the plaintiff must establish that he has exhausted his administrative remedies pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within sixty days after notice of a final decision; (2) the complaint must indicate the judicial district in which the plaintiff resides; (3) the complaint must state the nature of the plaintiff's disability and when the plaintiff claims he became disabled; and, (4) the complaint must contain a plain, short, and concise statement identifying the nature of the plaintiff's disagreement with the determination made by the Social Security Administration and show that the plaintiff is entitled to relief. *Montoya v. Colvin*, Case No. 2:16-cv-00454-RFB-NJK, 2016 WL 890922, at *2 (D. Nev. Mar. 8, 2016) (internal citations omitted).

1 Here, Plaintiff's Complaint represents that he has exhausted his administrative remedies and
2 timely commenced this action after the Social Security Administration's Appeal Council denied his
3 request for review (ECF No. 1-1 ¶ 4, 5); indicates the judicial district within which he resides (*id.* ¶
4 1); alleges that he suffers from "degenerative disc disease of the lumbar and cervical spines,
5 hypertension, hyperlipidemia, diabetes mellitus, depression, and anxiety" (*id.* ¶ 7); and, states that
6 the Commissioner committed reversible error by failing to "resolve an inconsistency between the
7 vocational expert's testimony and the *Dictionary of Occupational Titles*[,] . . . properly evaluate the
8 medical opinions of record[,] . . . apply the *de minimis* step 2 standard with respect to Plaintiff's
9 mental impairments[, and] . . . properly evaluate Plaintiff's description of his symptoms and
10 limitations[.]" (*id.* ¶ 8). Plaintiff's Complaint shall therefore proceed against Defendant.

11 Accordingly,

12 IT IS HEREBY ORDERED that Plaintiff's Application for Leave to Proceed *in forma*
13 *pauperis* (ECF No. 1) is granted.

14 IT IS FURTHER ORDERED that Plaintiff's Complaint (ECF No. 1-1) **shall** proceed against
15 Defendant.

16 IT IS FURTHER ORDERED that the Clerk of the Court **shall** detach and file Plaintiff's
17 Complaint (ECF No. 1-1).

18 IT IS FURTHER ORDERED that the Clerk of the Court **shall** serve the Commissioner of
19 the Social Security Administration by sending a copy of the Summons and Complaint by certified
20 mail to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160
21 Spear Street, Suite 800, San Francisco, CA 94105, and (2) the Attorney General of the United States,
22 Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

23 IT IS FURTHER ORDERED that the Clerk of the Court **shall** issue Summons to the United
24 States Attorney for the District of Nevada, and deliver the Summons and Complaint to the U.S.
25 Marshal for service.

26 IT IS FURTHER ORDERED that Defendant **shall** have **sixty (60) days** from the date of
27 service to file their answer or responsive pleading to Plaintiff's Complaint in this case.

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1 IT IS FURTHER ORDERED that, henceforth, Plaintiff **shall** serve upon Defendant a copy
2 of every pleading, motion, or other document submitted for consideration by the Court. Plaintiff
3 shall include with the original paper submitted for filing a certificate stating the date that a true and
4 correct copy of the document was mailed to Defendant. The Court may disregard any paper received
5 by a district judge, magistrate judge, or the Clerk of the Court which fails to include a certificate of
6 service.

7 DATED THIS 8th day of May, 2020.

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10 ELAYNA J. YOUCAH
11 UNITED STATES MAGISTRATE JUDGE
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